(2020) 07 DEL CK 0066

In the Delhi High Court

Case No : Civil Writ Petition No. 3897 Of 2020

Ess Aar Automotive Pvt. Ltd APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 14-07-2020

Acts Referred:

Central Goods & Service Tax Rules, 2017 — Rule 91(2), 94
Central Goods & Service Tax Act, 2017 — Section 54(6), 56

Citation : (2020) 07 DEL CK 0066

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Vineet Bhatia, Anil Soni, Devesh Dubey, Anuj Aggarwal, Ankit Monga, Harpreet Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.

2. Present writ petition has been filed seeking a direction to the respondents to immediately credit the already sanctioned Central Goods and Service

Tax component of the provisional refund amount and to refund the balance amount to the petitioner.

3. Learned counsel for petitioner states that a provisional refund order dated 27th November, 2019 under Section 54(6) and Rule 91(2) for

Rs.3,16,76,048 (i.e. CGST Rs.1,58,38,024/- + SGST Rs.1,58,38,024/-) was sanctioned being 90% of the total claim in terms of Section 54(6) of the

CGST Act.

4. He further states that a revised payment Advice No.62/2019-20 dated 05th December, 2019 was issued to the State Authority and thereafter the

SGST component of the provisional refund was credited to the bank account of the petitioner.

5. In the writ petition, it had been averred that CGST component of Rs.1,58,38,024/- provisionally sanctioned on 27th November, 2019 along with the interest and the remaining 10% of the refund of the balance amount of Rs.35,19,560/- (CGST-Rs.17,59,780/- + SGST-Rs.17,59,780/-) along with interest w.e.f. 01st October, 2019 has not been paid till date.

6. Today, learned counsel for the petitioner admits that CGST component of Rs.1,58,38,024/- being 45% of the total claim has been released to the petitioner.

7. Mr. Anuj Aggarwal, learned counsel for respondent No.2 states that his client has advised the Central Government to pay the 5% amount being Rs.17,59,780/- on 25th June, 2020. He also admits that the balance 5% amount being Rs.17,59,780/- has to be released by the respondent No.2.

8. Learned counsel for petitioner also seeks payment of interest in accordance with Section 56 and Rule 94 as well as para 34 of Circular No.125/44/2019 GST dated 18th November, 2019.

9. Consequently, present writ petition is disposed of with a direction to the respondent No.2 to pay Rs.17,59,780/- as well as respondents No.3-4 to pay Rs.17,59,780/- within a period of one week.

10. The petitioner is directed to file a comprehensive application manually with respondent No.2 seeking payment of outstanding interest within one week.

11. In the event, such an application is filed, it shall be disposed of by respondent No.2 by way of a reasoned order within two weeks thereafter.

12. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

